

11-204 CHRISTOPHER V. SMITHKLINE BEECHAM CORP.

DECISION BELOW: 635 F.3d 383

LOWER COURT CASE NUMBER: 10-15257

QUESTION PRESENTED:

The outside sales exemption of the Fair Labor Standards Act exempts from the overtime requirements of the Act "any employee employed ... in the capacity of outside salesman (as such terms are defined and delimited from time to time by regulations of the Secretary ...)." 29 U.S.C. § 213(a)(1). The Secretary of Labor has implemented various regulations that "define and delimit" the outside sales exemption and, filing as *amici* in this and other related matters, has interpreted these regulations to find the exemption inapplicable to pharmaceutical sales representatives. A split exists between the Second and Ninth Circuits concerning whether this interpretation is owed deference and whether the outside sales exemption of the Fair Labor Standards Act applies to pharmaceutical sales representatives.

The questions presented are:

(1) Whether deference is owed to the Secretary's interpretation of the Fair Labor Standards Act's outside sales exemption and related regulations; and

(2) Whether the Fair Labor Standards Act's outside sales exemption applies to pharmaceutical sales representatives.

CERT. GRANTED 11/28/2011